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 National Collegiate Student Loan Trust 2005-3
 and National Collegiate Student Loan Trust 2006-3

**UNITED STATES BANKRUPTCY COURT
 EASTERN OF CALIFORNIA - SACRAMENTO DIVISION**

In re

 Rashan Roddney Anderson,

 Debtor.

Rashan Roddney Anderson,

 Plaintiff,

vs.

National Collegiate Student Loan Trust
 2005-3, et al.

 Defendants.

Case No. 15-28759
 Chapter 7

Adversary Proceeding No. 16-02028
 Honorable Christopher D. Jaime

**PRE-TRIAL MOTION DISMISSING
 ADVERSARY PROCEEDING FOR LACK
 OF PROSECUTION OR ALTERNATIVELY
 TO EXCLUDE WITNESSES AND
 EVIDENCE OF PLAINTIFF**

Hearing

Date: March 13, 2017
 Time: 10:30 am
 Place: Sacramento, Courtroom 32,
 Department B

Defendants National Collegiate Student Loan Trust 2005-3 and National Collegiate Student Loan Trust 2006-3 (collectively referred to herein as “NCSLT” or “Defendants”), by and through counsel, joins Defendant ECMC and brings this Pre-trial Motion (virtually identical to the language of ECMC’s motion) seeking dismissal for lack of prosecution or alternatively to exclude all witnesses and evidence in the trial of the above-entitled adversary proceeding as a

1 result of failing to comply with the Trial Order issued by this Court and Local Bankruptcy Rule
2 9017-1.

3 On January 12, 2017, this Court issued a Trial Order (docket 38) directing the parties to
4 comply with Local Bankruptcy Rule 9017-1. Plaintiff was to have his alternate direct testimony
5 declarations and marked exhibits to NCSLT's counsel by March 6, 2017. As of March 9, 2017,
6 the Plaintiff has not served his 9017-1 documents to NCSLT's counsel, nor has NCSLT's
7 counsel been contacted to explain the lateness.
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9 The purpose of this procedure is to streamline the adducement of direct testimony in
10 trials and contested matters requiring an evidentiary hearing, so as to reduce trial time
11 without sacrificing due process and a fair trial. This procedure shall be known as the
12 Alternate Direct Testimony Procedure.

13 *Local Bankruptcy Rule 9017-1(a)(1).*

14 Defendants will be placed at a severe disadvantage without the timely exchange of
15 witness testimony and exhibits in preparing for this trial. Additionally, needless time and
16 expense will be incurred in preparing for a trial that might not occur as a result of the Plaintiff
17 not complying with Rule 9017-1. This Court can and should exclude all witnesses and evidence
18 from the Plaintiff under Rule 9017-1(d).
19

20 *Sanctions for Failure to Comply.* If a party fails to comply with the provisions of this
21 Rule or an order for the timely exchange and lodging with the court of Alternative
22 Direct Testimony Statements, exhibits, or other evidence as ordered by the court, the
23 court may issue appropriate sanctions. The sanctions may include the court excluding
24 such Direct Testimony Statement(s) and the live direct testimony of the witness(es)
25 giving such statements, exhibits, or other evidence presented which were not timely
26 exchanged or presented, or such lesser sanction as appropriate and reasonable.
27 Enforcement of this Rule and the court's orders for timely exchange of evidence is
28 necessary to ensure a fair and proper judicial process and the good faith prosecution of
all matters by the parties.

Local Bankruptcy Rule 9017-1(d).

1 Here, Plaintiff has failed to comply with Local Rule 9017-1 by not serving his alternate
2 direct testimony declarations and marked exhibits to NCSLT's counsel by March 6, 2017.

3 WHEREFORE, Defendant NCSLT respectfully requests this Court dismiss the above-
4 entitled adversary proceeding for lack of prosecution or alternatively to exclude all witnesses
5 and evidence in the trial as result of not complying with this Court's Pre- trial Order and Local
6 Bankruptcy Rule 9017-1. To not do so would place NCSLT and the other defendants at a severe
7 disadvantage.
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11 Dated: March 9, 2017

Respectfully submitted,

13 /s/ Scott S. Weltman
14 Scott S. Weltman (145215)
15 Attorney for Defendants,
16 National Collegiate Student Loan Trust 2005-3
17 National Collegiate Student Loan Trust 2006-3
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